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SENATE BILL 170

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO TRIALS; EXPANDING THE EXEMPTION FROM JURY SERVICE;
AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 38-5-2 NMSA 1978 (being Laws 1973,
Chapter 150, Section 1, as amended) is amended to read:

"38-5-2. EXEMPTION FROM JURY SERVICE--EXCUSALS--SERVICE
OF DISQUALIFIED JUROR.--

A. A person who has served as a member of a petit
jury panel or a grand jury in either state or federal courts
within the preceding thirty-six months shall be exempt from
sitting or serving as a juror in a court of this state when the
person requests to be exempted from service by reason of the
exemption granted by this subsection.

B. A person may be excused from jury service at the

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1 discretion of the judge or the judge's designee, with or
2 without the person's personal attendance upon the court, if:

3 (1) jury service would cause undue or extreme
4 physical or financial hardship to the prospective juror or to a
5 person under the prospective juror's care or supervision;

6 (2) the person has an emergency that renders
7 the person unable to perform jury service; ~~[or]~~

8 (3) the person presents other satisfactory
9 evidence to the judge or the judge's designee; or

10 (4) the person is:

11 (a) an expectant mother or a mother who
12 is currently breast-feeding;

13 (b) a parent or guardian who is not
14 employed full time and who has custody of a child under six
15 years of age; or

16 (c) a caregiver for elderly or disabled
17 persons who is scheduled or expected to provide care at the
18 time of the required jury service.

19 C. A person requesting an exemption or an excuse
20 from jury service shall take all necessary action to obtain a
21 ruling on the request no later than the date on which the
22 person is scheduled to appear for jury duty.

23 D. The judge, in the judge's discretion, upon
24 granting any excuse, may disallow the fees and mileage of the
25 person excused.

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1 E. The service upon a jury of a person disqualified
2 shall, of itself, not vitiate any indictment found or any
3 verdict rendered by that jury, unless actual injury to the
4 person complaining of the injury is shown.

5 F. As used in this section and Section 38-5-1 NMSA
6 1978, "undue or extreme physical or financial hardship":

7 (1) means circumstances in which a person
8 would:

9 (a) be required to abandon another
10 person under the person's care or supervision due to the
11 extreme difficulty of obtaining an appropriate substitute
12 caregiver during the period of jury service;

13 (b) incur costs that would have a
14 substantial adverse impact on the payment of necessary daily
15 living expenses of the person or the person's dependent; or

16 (c) suffer physical hardship that would
17 result in illness or disease; and

18 (2) does not exist solely because a
19 prospective juror will be absent from employment."